



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

JRE

Docket No: 7658-99

21 November 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that her naval record be corrected to show that she was discharged by reason of physical disability, vice a personality disorder.

2. The Board, consisting of Messrs. Ensley, Swarens and Taylor, reviewed Petitioner's allegations of error and injustice on 9 November 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner enlisted in the Navy on 15 May 1996. She appeared before a medical board on 13 January 1997, and was given a diagnosis of major depressive disorder, single episode, moderate, with melancholic features, acute. Her condition was thought to be related to her separation from her young daughter. Petitioner's condition improved as she awaited action by the Physical Evaluation Board (PEB), and her possible discharge from the Navy and return to her daughter. On 12 March 1997, the PEB made preliminary findings that she was fit for duty. Upon notification of those findings, her condition deteriorated and she required hospitalization at a Department of Veterans Affairs (VA) facility. The PEB reconsidered and affirmed its preliminary findings on 7 May 1997. On 13 May 1997, the President, PEB, advised Petitioner, in part, that "the condition for which you wish to be rated is not ratable by the board." It appears that the President, PEB, viewed her condition as an adjustment disorder and/or relationship problem in reaction to her separation from her

daughter, rather than an unfitting depressive disorder. Petitioner was discharged from the Navy on 29 August 1997, by reason of personality disorder, not otherwise specified. Available records indicate that she was given that diagnosis as a means of expediting her discharge and return home, even though her mental health providers believed she continued to suffer from major depression, and remained unfit for duty. The administrative discharge action was taken in lieu of initiating another medical board for major depression, which would have taken a substantial amount of time to complete, with no certainty that she would have been found unfit for duty by the PEB. On 23 March 1998, the Department of Veterans Affairs awarded Petitioner service connection for major depressive disorder.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's Navy mental health care providers were correct in their determination that Petitioner suffered from a depressive disorder which rendered her unfit for duty, and that she should have been separated from the Navy because of that condition, rather than discharged because of a personality disorder. Accordingly, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she was discharged from the Navy by reason of physical disability on 29 August 1997, with entitlement to disability severance pay, pursuant to 10 U.S. Code 1203, with a 10% rating for major depression under VA code 9434.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director